

HOUSE No. 3354

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph F. Wagner

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act further regulating the use of certain communication devices while operating a motor vehicle.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joseph F. Wagner	8th Hampden
Katherine Clark	32nd Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4477 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT FURTHER REGULATING THE USE OF CERTAIN COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Section 1 of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is
2 hereby amended by adding the following definitions:-
3 “Mobile telephone”, a cellular, analog, wireless, satellite or digital telephone, including a telephone with
4 two-way radio functionality, capable of sending or receiving telephone communications and with which a
5 user initiates, terminates or engages in a call using at least one hand.
6 “Hands-free accessory”, an attachment, add-on, built-in feature or addition to a mobile telephone, whether
7 or not permanently installed in a motor vehicle, that, when used, allows the operator of a motor vehicle to
8 maintain both hands on the steering wheel at all times.
9 “Hands-free mobile telephone”, a hand-held mobile telephone that has an internal feature or function, or
10 that is equipped with a hands-free accessory, whether or not permanently part of such hand-held mobile
11 telephone, by which a user engages in a call without the use of either hand, whether or not the use of
12 either hand is necessary to activate, deactivate or initiate a telephone call.
13 “Mobile electronic device”, any hand-held or other portable electronic equipment capable of providing
14 data communication between two or more persons, including a text messaging device, a paging device, a
15 personal digital assistant, a laptop computer, equipment that is capable of playing a video game or digital
16 video disk, or equipment on which digital photographs are taken or transmitted, or any combination
17 thereof, or equipment that is capable of visually receiving a television broadcast, but shall not include any
18 audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation or
19 emergency assistance to the operator of such motor vehicle or video entertainment to the passengers in the
20 rear seats of such motor vehicle.
- 21 SECTION 2. Section 8 of said chapter 90, as so appearing, is hereby amended by inserting after the sixth
22 paragraph the following two paragraphs:-

23 No person under 18 years of age shall use a mobile telephone, a hands-free mobile telephone or a mobile
24 electronic device while operating a motor vehicle on any public way. For the purposes of this paragraph, a
25 junior operator shall not be considered to be operating a motor vehicle if the vehicle is stationary and not
26 located in a part of the roadway intended for travel.

27 A junior operator who violates the preceding paragraph shall be punished by a fine of \$100 and shall have
28 his license or permit suspended for 60 days for a first offense, by a fine of \$250 and shall have his license
29 or permit suspended for 180 days for a second offense, and by a fine of \$500 and shall have his license or
30 permit suspended for 1 year for a third or subsequent offense. It shall be an affirmative defense for a
31 junior operator to produce documentary or other evidence that the use of a mobile telephone that is the
32 basis of the alleged violation was made for emergency purposes, including, but not limited to, an
33 emergency call to a law enforcement agency, health care provider, fire department or other emergency
34 services agency or entity.

35 SECTION 3. Section 13 of said chapter 90, as so appearing, is hereby amended by striking out, in line 6,
36 the words "or mobile telephone" and inserting in place thereof the following words:-- or amateur radio.

37 SECTION 4. Said section 13 of said chapter 90, as so appearing, is hereby further amended by striking
38 out the fifth sentence, in lines 25 to 29 inclusive.

39 SECTION 5. Said chapter 90, as so appearing, is hereby amended by inserting after section 24X the
40 following section:-

41 Section 24Y. No person shall operate a motor vehicle on a public way while using a mobile electronic
42 device or a mobile telephone, unless said telephone is a hands-free mobile telephone. For the purposes of
43 this section, an operator shall not be considered to be operating a motor vehicle if the vehicle is stationary
44 and not located in a part of the roadway intended for travel.

45 A violation of this section shall be punishable by a fine of \$100 for a first offense, by a fine of
46 \$250 for a second offense and by a fine of \$500 for a third or subsequent offense. It shall be an
47 affirmative defense for an operator to produce documentary or other evidence that the use of a mobile
48 telephone that is the basis of the alleged violation was made for emergency purposes, including, but not
49 limited to, an emergency call to a law enforcement agency, health care provider, fire department or other
50 emergency services agency or entity.

51 This section shall not apply to the following persons operating motor vehicles in the execution of
52 their duties:

- 53 (1) the driver of a fire-fighting vehicle;
54 (2) the driver of a rescue vehicle or an ambulance; or
55 (3) a state, county, or local public safety official, if operating the vehicle with due regard to the
56 safety of others.

57 A violation of the seventh paragraph of section 8 and this section shall not be considered a
58 surchargeable motor vehicle offense pursuant to section 113B of chapter 175.

59 SECTION 6. The last paragraph of section 24Y of chapter 90 of the General Laws shall become
60 inoperative on July 1, 2010.

61 SECTION 7. The registrar of motor vehicles, in cooperation with the governor's highway safety bureau,
62 shall develop and implement a public awareness campaign for both junior and adult drivers which shall
63 include, but not be limited to, information on the restrictions of mobile telephone and mobile electronic
64 device use while operating a motor vehicle under section 8 and section 24Y of chapter 90 of the General
65 Laws, information on the fines and punishments which may be imposed for violations of said chapter 90,
66 and for adult drivers, information on the types of hands-free accessories or hands-free mobile telephones
67 permitted for use while operating a motor vehicle. Said campaign shall commence no later than
68 September 1, 2009.